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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/516,792	03/01/2000	Steven H. M. Wallman	10392/46701	2856
26646	7590	02/18/2004	EXAMINER	
KENYON & KENYON ONE BROADWAY NEW YORK, NY 10004				AKERS, GEOFFREY R
ART UNIT		PAPER NUMBER		
3624				

DATE MAILED: 02/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.	09/516792	Applicant(s)	Wellman
Examiner	Ahers G	Art Unit	3624 MW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1)  Responsive to communication(s) filed on 11/26/03.
- 2a)  This action is FINAL.      2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

- 4)  Claim(s) 1-87 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 1-87 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some\* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a)  The translation of the foreign language provisional application has been received.
- 15)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
- 4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Amendment*

#### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-10,12-21,23-39,41-61,63-84,86-87 are rejected under 35 USC 103(a) as unpatentable over Hawkins(US Pat. No: 6,247,000) in view of Garber(US Pat. No: 5,963,923).

3. As per claims 1-10,12-21,23-39,41-61,63-84,86-87 Hawkins teaches a system for confirmation and settlement for financial transactions matching(Abstract)(Figs 1-30)(col 4 line 20-col 5 line 28) as well as a share based transaction(Fig 9) as well as currency based transactions(Fig 14).Hawkins further teaches a dealing system(Fig 2A/41/31) and a settlement system(Fig 2A/37) and generation of matched confirmations reports(Fig 2A/44a/34a). Hawkins also teaches unconfirmed orders(Fig 2B) as well as dealing in a value based order(Fig 4/86a/32)(Fig 9/221n) and a share based order(Fig 9/221f) and a value based settlement amount(Fig 11/221j) and a quantity(Fig 11/221f) and a deal amount(Fig 11 221n). Hawkins also teaches different currency values(Fig 12) for dealing as well as charges(Fig 12/331).Hawkins also teaches status of orders that may be contingent(Fig 28D) as well as pre-matched settlements(Fig 28A) and special

concessions in trades(Fig 27D) and additional fees(Fig 27D/500b).Hawkins teaches a plurality of matched and unmatched derivatives trades denominated in value(currency)(Fig 14) and product reports with trade summary which could be in currency or shares(Fig 26/151c). In addition to that taught by Hawkins, Garber teaches an electronic brokerage and trading network(Abstract) for a plurality of financial instruments(Figs 1-10)(col 3 line 41-col 5 line 6) and transactions(Fig 9).Garber also teaches odd value in currency in the value transaction(Fig 1/32) as well as quantity markets and layoff markets(Fig 3/44/46) and real time data for market surveillance. Garber also teaches order routing and addition or subtraction from principal market maker inventory fpr delta determination for balance(Fig 4/33).Garber also teaches quantity division(Fig 10) and long and short inventory(Fig 9) in volume. Garber further teaches value ranges(Fig 6). It would have been obvious to one skilled in the art at the time of the invention to combine Hawkins in view of Garber to teach the disclosure. The motivation to combine Hawkins in view of Garber is to teach financial transactions matching utilizing the best aspects of a combined trader and broker function who makes a two-sided bid/offer market as enunciated by Garber(col 3 lines 45-50).

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 11,22,40,62,85 are rejected under 35 USC 112 as failing to define the invention to enable one skilled in the art to utilize it. In particular it is necessary to provide the derivation, underlying assumptions and limitations on the presented equations.

***Claim Rejections - 35 USC § 101***

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claims 12-23 are also rejected under 35 USC 101 for failing to define a concrete, useful and tangible output.

***Response to Arguments***

8. Applicant's arguments are not persuasive. Hawkins also teaches unconfirmed orders(Fig 2B) as well as dealing in a value based order(Fig 4/86a/32)(Fig 9/221n) and a share based order(Fig 9/221f) and a value based settlement amount(Fig 11/221j) and a quantity(Fig 11/221f) and a deal amount(Fig 11 221n). Hawkins also teaches different currency values(Fig 12) for dealing as well as charges(Fig 12/331).Hawkins also teaches status of orders that may be contingent(Fig 28D) as well as pre-matched settlements(Fig 28A) and special concessions in trades(Fig 27D) and additional fees(Fig 27D/500b).Hawkins teaches a plurality of matched and unmatched derivatives trades denominated in value(currency)(Fig 14) and product reports with trade summary which could be in currency or shares(Fig 26/151c). Garber also teaches odd value in

currency in the value transaction(Fig 1/32) as well as quantity markets and layoff markets(Fig 3/44/46) and real time data for market surveillance. Garber also teaches order routing and addition or subtraction from principal market maker inventory fpr delta determination for balance(Fig 4/33).Garber also teaches quantity division(Fig 10) and long and short inventory(Fig 9) in volume.

***Conclusion***

**9. THIS ACTION IS MADE FINAL.**

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10. Any questions concerning this communication should be addressed to the acting-SPE of record, Dr. Geoffrey Akers, P.E., who can be reached between 6:30 AM and 5:00 PM Monday through Friday at 703-306-5844. If attempts to contact the undersigned are unsuccessful, the superior, Mr. Vincent Millin, SPE, may be telephoned at (703)-308-1065.

The fax number for Formal or Official faxes and Draft or Informal faxes to Technology Center 3600 or this Art Unit is (703)-308-3687. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)-308-1113.



February 13, 2004

**DR. GEOFFREY R. AKERS, P.E.  
PRIMARY EXAMINER**